

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

JOHNNY P. JONES,

Defendant.

CASE NO. 8:09CR96

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) in this case. The Defendant has objected to the PSR (Filing No. 35). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Defendant objects to ¶¶ 26 and 34 (lack of an adjustment for acceptance of responsibility), arguing that a 2-level adjustment for acceptance of responsibility is appropriate. The objection will be heard at sentencing, and the Defendant has the burden by a preponderance of the evidence.

The Defendant also moves for a downward departure based on over representation of criminal history (Filing No. 35). The motion will be heard at sentencing.

IT IS ORDERED:

1. The Defendant's objections to ¶¶ 26 and 34 (lack of a reduction for acceptance of responsibility) will be heard at sentencing;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are

required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 2 of this Order, my tentative findings may become final;

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

5. The Defendant's motion for downward departure (Filing No. 35) will be heard at sentencing.

DATED this 28th day of August, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge